

No.

3640

United States
Circuit Court of Appeals
For the Ninth Circuit.

ROBERT DAVIS and O. A. DODSON,
Plaintiffs in Error,
vs.
UNITED STATES OF AMERICA,
Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District
Court, for the Southern District of Cal-
ifornia, Southern Division.

FILED

JAN 31 1921

F. D. MONTGOMERY,

CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys.

For Plaintiffs in Error:

ALBERT SCHOONOVER, Esq., ~~Los Angeles,~~ ^{San Diego}
California.

For Defendant in Error:

ROBERT O'CONNOR, Esq., United States Attorney; T. F. GREEN and B. B. CRANE, Esqs., Assistant United States Attorneys
Federal Building, Los Angeles, California.

Citation.

United States of America, ss.

To The United States of America,

GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit of Appeals for the Ninth Circuit, to be held at the City of San Francisco, in the State of California, on the 16th day of November A. D. 1920, pursuant to a writ of error sued out in the Clerk's Office of the District Court of the United States, in and for the Southern District of California, in that certain case wherein Robert Davis and O. A. Dodson are plaintiffs in error and you are defendants in error to show cause, if any there be, why the judgment and sentence in the said writ of error mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable Oscar A. Trippet
United States District Judge for the Southern District of California, this.....day of
October, A. D. 1920, and of the Independence
of the United States, the one hundred and
forty fifth.

Trippet

U. S. District Judge for the Southern District of
California.

[Endorsed]: 2320 Crim. *In the* United States
Circuit Court of Appeals *for the* NINTH CIRCUIT
Robert Davis and A. O. Dodson Plaintiffs in Error.

vs. The United States of America, Defendants in Error. Citation Received copy of the within. Gordon Lawson As'st U. S. Atty. 10/19/20. FILED Oct 19 1920 CHAS. N. WILLIAMS, Clerk Louis J. Somers, Deputy

Writ of Error.

United States of America, ss.

The President of the United States of America,

To the Judges of the District Court of the United States, for the Southern District of California,
GREETING:

Because in the record and proceedings, and also in the rendition of the judgment of a plea which is in the said District Court, before you between The United States of America and Robert Davis and O. A. Dodson, No 2320 Crim. a manifest error hath happened, to the great damage of the said Robert Davis and O. A. Dodson as by their complaint appears, and it being fit, that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at the City of San Francisco, in the State of California, on the 16th

day of November, 1920, next, in the said United States Circuit Court of Appeals, to be there and then held, that the record and proceedings aforesaid be inspected, the said United States Circuit Court of Appeals may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

WITNESS, the HON. EDWARD D. WHITE,
Chief Justice of the United States, this 18th
day of October in the year of our Lord one
(Seal) thousand nine hundred and twenty and of
the Independence of the United States the
one hundred and forty fifth.

Chas. N. Williams
Clerk of the District Court of the
United States of America, in and
for the Southern District of Cali-
fornia.

The above writ of error is hereby allowed.

Trippet
Judge.

I hereby certify that a copy of the within Writ of Error was on the 18th day of October, 1920, lodged in the office of the Clerk of the said United States District Court, for the Southern District of California, Southern Division, for said Defendants in Error.

Chas. N. Williams
Clerk of the District Court of the
United States for the Southern
District of California.

[Endorsed]: United States Circuit Court of Appeals *for the* NINTH CIRCUIT Robert Davis and A. O. Dodson *Plaintiffs in Error vs.* The United States of America *Defendants in Error* Writ of Error FILED OCT 18 1920 Chas N. Williams CHAS N. WILLIAMS, Clerk By _____ Deputy Clerk

IN THE DISTRICT COURT OF THE UNITED STATES SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION.

UNITED STATES OF AMER-)	
ICA,		No. 2320 Crim.
	Plaintiff,)	
vs.		ORDER
ROBERT DAVIS, O. A. DOD-)	
SON, et al.,		ALLOWING
	Defendants.)	
		WRIT OF ERROR.

Upon motion of Albert Schoonover, Esq., Attorney for the defendants O. A. Dodson and Robert Davis, in the above entitled action, and upon filing the petition for a Writ of Error and Assignment of Errors.

IT IS ORDERED that a Writ of Error be and hereby is allowed to have reviewed in the United States Circuit Court of Appeals for the Ninth Circuit, the verdict and judgment heretofore entered herein; that pending the decision upon said Writ of Error the supersedeas prayed for by the aforesaid defendants in their petition for Writ of Error is hereby allowed, and the said defendant, Robert Davis, is ad-

mitted to bail upon said Writ of Error in the sum of \$10,000.00, and the said defendant, O. A. DODSON, is also admitted to bail upon said Writ of error in the sum of \$2,000.00, upon the bond heretofore approved and filed herein.

Trippet

Judge of the District Court.

Dated October 18 1920.

[Endorsed]: *No.* 2320 Crim. IN THE DISTRICT COURT OF THE UNITED STATES FOR THE Southern District of California, Southern Division. UNITED STATES OF AMERICA, Plaintiff, *vs.* Robert Davis, O. A. Dodson, et al., Defendants. ORDER ALLOWING WRIT OF ERROR FILED OCT 19 1920 CHAS. N. WILLIAMS, Clerk Louis J. Somers Deputy 7-754

Indictment.

No. —

Filed: —

Viol: Sec. 37, FPC, Conspiracy, to violate Act of Oct. 28, 1919.

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

At a stated term of said Court, begun and holder at the City of Los Angeles, County of Los Angeles, within the Southern Division of the Southern District of California, on the second Monday of July, in the

year of our Lord one thousand nine hundred and twenty;

The Grand Jurors of the United States of America, chosen, selected and sworn, within and for the Division and District aforesaid, on their oath present:

That ROBERT DAVIS, O. A. DODSON and ADOLFO C. OLIVAS, whose full and true names are, and the full and true name of each of whom is, to the Grand Jurors unknown, and various and sundry other persons whose names are to the Grand Jurors unknown, each late of the Southern Division of the Southern District of California, heretofore to-wit, on or about the 18th day of July, 1920, and during all of the times thereafter up to and including the time of the filing of this indictment, at or near El Centro, County of Imperial, and at or near Calexico, County of Imperial, within the State and Southern Division of the Southern District of California and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, corruptly, fraudulently and feloniously, conspire, combine, confederate, and agree together and with various and sundry other persons to the Grand Jurors unknown, to commit an offense against the United States, to-wit: the offense of knowingly, wilfully and unlawfully transporting, selling, bartering, furnishing and possessing intoxicating liquors, namely, whiskey, containing alcohol in excess of one-half of one percent by volume in violation of the Act of Congress entitled, "An Act to prohibit intoxicating beverages, and to regulate the manufacture, production, use and sale of high-proof spirits

for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries", commonly known as the "National Prohibition Act of October 28, 1919."

And the said defendants, ROBERT DAVIS, O. A. DODSON and ADOLFO C. OLÍVAS, at the time they so conspired, confederated and agreed together then and there well knew that it was unlawful to transport, sell, barter, furnish and possess said whiskey.

OVERT ACT NO. 1.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present:

That in furtherance of said conspiracy and to effect and accomplish the object and purpose thereof, at or near El Centro, California, within the jurisdiction of the United States and this Honorable Court, the said defendant, ROBERT DAVIS, on or about the 20th day of July, 1920, did counsel and advise said defendant ADOLFO C. OLIVAS to go from said El Centro to Calexico, and did then and there knowingly, wilfully and unlawfully furnish said ADOLFO C. OLIVAS with horses and a wagon for the purpose of traveling to said Calexico and for the purpose then and there of obtaining said whiskey.

OVERT ACT NO. 2.

And the Grand Jurors aforesaid on their oath aforesaid do further present:

That in furtherance of said conspiracy and to effect and accomplish the object and purpose thereof, at or near Calexico, within the jurisdiction of the United States and of this Honorable Court, the said defendant, Robert Davis, on or about the 20th day of July, 1920, did knowingly, wilfully and unlawfully advise, counsel and abet said Adolfo C. Olivas to go to a place near Calexico, California, where intoxicating liquors, to-wit: thirteen five-gallon demijohns of whiskey containing alcohol in excess of one-half of one percent by volume, were hidden.

OVERT ACT NO. 3.

And the Grand Jurors aforesaid on their oath aforesaid, do further present:

That in furtherance of said conspiracy and to effect and accomplish the object and purpose thereof, at or near Calexico, California, within the jurisdiction of the United States and of this Honorable Court, the said defendant, Robert Davis, on or about the 20th day of July, 1920, did knowingly, wilfully and unlawfully advise, counsel and abet said Adolfo C. Olivas, to knowingly, wilfully and unlawfully transport and attempt to transport thirteen five-gallon demijohns of whiskey containing alcohol in excess of one-half of one percent by volume from at or near Calexico, California, to the ranch of said Robert Davis, which said ranch was at or near said El Centro, California, and within the jurisdiction of the United States and of this Honorable Court.

OVERT ACT NO. 4.

And the Grand Jurors aforesaid on their oath aforesaid do further present:

That in furtherance of said conspiracy and to effect and accomplish the objects and purpose thereof, at or near Calexico, California, and within the jurisdiction of the United States and of this Honorable Court, on or about the 20th day of July, 1920, said defendants Adolfo C. Olivas and O. A. Dodson did knowingly, wilfully and unlawfully put into said wagon and did knowingly, wilfully, and unlawfully possess and transport and convey and attempt to possess and transport and convey thirteen five-gallon demijohns of whiskey containing alcohol in excess of one-half of one percent by volume from at or near said Calexico, California, to the ranch of said Robert Davis, which said ranch was at or near Calexico, and within the jurisdiction of the United States and of this Honorable Court.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the said United States.

Robert O'Connor

United States Attorney.

Burton Briggs Crane

Assistant U. S. Attorney.

[Endorsed]: No. 2320 Crim UNITED STATES DISTRICT COURT, Southern *District of* California, Southern *Division*. THE UNITED STATES OF AMERICA *vs.* ROBERT DAVIS, O. A. DODSON, and ADOLFO C. OLIVAS, INDICTMENT Viol.

Sec. 37, FPC, Conspiracy, to viol. Act of Oct. 28, 1919.

A true bill, Leo S. Chandler *Foreman*. FILED SEP

10 1920 CHAS N. WILLIAMS, Clerk By Wm U.

Handy Deputy Clerk

Bail \$—————

Davis - \$ 10,000

Olivas —————

Dodson - \$ 1,000

7-433

At a stated term, to wit: the September Term, A. D., 1920, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the Court Room thereof, in the City of San Diego, on Monday, the Thirteenth day of September, in the year of our Lord one thousand nine hundred and twenty;

Present:

The Honorable OSCAR A. TRIPPET, District Judge.

United States of America,)	
	) Plaintiff,)
vs.	)	No. 2320 Crim.
Robt. Davis and O. A. Dodson,)	
	) Defendants.)

This cause coming on at this time for the arraignment of defendants and for the entry of their plea, T. F. Green, Esq., Assistant U. S. Attorney, appearing for plaintiff; M. V. Wilson, Esq., appearing for defendants; and defendants Robt. Davis and O. A. Dod-

son being present on bond and having been called and arraigned and having stated their true names to be as given in the Information; and having requested that the Information be read, and the court having read the Information; on motion of T. F. Green, Esq. it is ordered that the bond of defendant O. A. Dodson be, and the same hereby is fixed at \$10,000.00, and it is further ordered that this case be, and the same hereby is continued to 2 o'clock P. M., Tuesday, Sept 14, for entry of plea.

At a stated term, towit: the September Term A. D. 1920, of the District Court of the United States of America within and for the Southern District of California, Southern Division, held at the Court Room thereof, in the City of San Diego, on Tuesday, the Twenty-first day of September, in the year *or* our Lord One thousand nine hundred and twenty:

Present:

The Honorable OSCAR A. TRIPPET, District Judge.

United States of America,)	
	Plaintiff,)
vs.	)	No. 2320 Crim.
)	
Robt. Davis and O. A. Dodson,)	
	Defendants.)

This cause coming on this day to be tried before the court and a jury to be impanelled as to defendants Robt. Davis and O. A. Dodson; T. F. Green, and B. B.

Crane, Esqs., Assistant U. S. Attorneys, being present for the Government; O. V. Wilson, Esq., being present for the defendants; and both defendants being present on bail; and both sides having answered ready, it is now by the court ordered that a jury be impanelled herein; and thereupon the names of the following petit jurors having been duly drawn from the box, and called, and sworn on their voir dire, to wit: Wm. S. Neal, Geo. L. Barney, G. W. Fryatt, J. Don Dunann, Tony Iverson, Julian F. Wire, Albert J. Rinehart, Geo. E. Spainhome, Willard M. Doubleday, Fred A. Schneider, John G. Burgess, and A. Ellis Barron; and said petit jurors having been examined by the court, and counsel for respective parties; and Wm. S. Neal having been excused by the court for cause; and the name of one other petit juror having been drawn from the box and called and sworn, to wit F. L. Nason, and examined by the court and counsel for the respective parties, and said jurors now in the box having been passed for cause, and counsel for the Government not desiring to exercise any peremptory challenges; and J. Don Dunann, A. Ellis Barron, G. W. Fryatt, George L. Barney, Willard M. Doubleday, and John H. Burgess having been peremptorily challenged by counsel for defendant and excused by the court; and the court having ordered that six other petit jurors be drawn from the jury box; and the names of the following six petit jurors having been drawn and called, and said jurors having been sworn on their voir dire, to wit: Arren L. Nash, Horace Aughe, W. Clark Weitzel, Albert H. Kayser, Edwin J. Swayne, and Herbert M.

Hayes; and said jurors having been examined by the court and counsel for the respective parties and passed for cause; and Norman E. Martin, having been peremptorily challenged by counsel for the Government, and by the court excused; and the name of one other petit juror having been drawn from the box and called and sworn on his voir dire, to wit: Burton L. Forbes, and said juror having been examined by the court and counsel for respective parties and passed for cause; and said juror having been peremptorily challenged by counsel for Government and by the court excused; and the name of one other petit juror having been drawn from the box and said juror having been sworn on his voir dire, to wit: James Middleton, and said juror having been examined by the court and counsel for respective parties and passed for cause; and the said jurors now in the box having been accepted by counsel for respective parties as the jury to try this case, said jury as so impanelled and sworn consisting of the following named persons, to wit:

- | | |
|---------------------|-----------------------|
| 1. F. L. Nason | 7. Albert J. Rinehart |
| 2. Lee R. Jennings | 8. Geo. E. Spainhome |
| 3. W. Clark Weitzel | 9. Guey E. Pearl |
| 4. Arren L. Nash | 10. Fred A. Schneider |
| 5. Tony Iverson | 11. Herbert M. Hayes, |
| 6. Julian F. Weir | 12. James Middleton. |

and the Indictment having been read to the jury; and now, at the hour of 11:12 o'clock A. M., the jury thereupon having been cautioned and admonished by the court not to talk to anyone about the case, or any matter connected therewith, or permit anyone to talk to them about the case, or any matter connected there-

with, or to talk with each other about the case, until it is finally submitted to them under the instructions of the court; and the court having thereupon at the hour of 11:12 o'clock A. M., taken a recess for eight minutes; and

Now at the hour of 11:20 o'clock A. M., the court having reconvened and both defendants being present as before, and counsel for respective parties being present, and W. C. Wren, being present as shorthand reporter of the proceedings and testimony; and the court having announced the jury as all present; and ordered the trial proceeded with; and

W. T. Harris, having been called and sworn, and having testified on behalf of the Government; and

The following exhibits having been offered in connection with said testimony in evidence, same are admitted and ordered filed herein, to wit:

U. S. Ex. 1. -5- gal. Demijohn of Whiskey

“ “ 2. “

“ “ 3. “

“ “ 4. “

“ “ 5. “

“ “ 6. “

“ “ 7. “

“ “ 8. “

“ “ 9. “

“ “ 10. “

“ “ 11. “

“ “ 12. “

“ “ 13. “

“ “ 14. Various Sacks.

and E. R. Brown, and A. C. Olivas having been respectively called and sworn and having testified respectively on behalf of the United States; and

Now, at the hour of 12 o'clock noon, the court having admonished the jury in the usual manner, a recess is taken to the hour of 2 o'clock P. M., of this day; and

Now, at the hour of 2 o'clock P. M., the court having reconvened and all being present as before, and W. C. Wren, being present as shorthand reporter of the proceedings and testimony; and the court having announced the jury as all present and having ordered the trial proceeded with; and

A. C. Olivas, a witness heretofore sworn, having resumed the stand and having testified further on behalf of the Government; and

In connection with the said testimony, the following exhibit having been offered in evidence, same is admitted and filed, to wit:

U. S. Ex. 15 - Agreement between M. B. Davis, A. C. Olivas, and Felix Olivas; and

Ike Ruiz and Augustine P. Nazobelle, having been respectively called and sworn, and having testified on behalf of the Government; and

Now at the hour of 3:40 o'clock P. M., the court having duly admonished the jury, now orders that a recess be taken for five minutes; and

Now at the hour of 3:45 o'clock P. M., the court having reconvened and all being present as before, and W. C. Wren, being present as shorthand reporter of the proceedings and testimony, and the court having

announced the jury as all present, and having ordered that the trial be proceeded with; and

Manuel Marcus, having been called and sworn, and having testified on behalf of the Government thru the Spanish interpreter, Geo. Courts; and

Felix Olivas, having been called, and sworn, and having testified on behalf of the Government; and

Now, on motion of T. F. Green, Esq., Assistant U. S. Attorney, of counsel for the Government; as aforesaid, and good cause appearing therefor, it is by the court ordered that twelve 5-gallon Demijohns of liquor now in evidence be delivered to R. F. Gussweiler, for safe keeping, and one Demijohn to remain in the custody of the clerk; and

Now, at the hour of 4:35 o'clock, P. M., the court having duly *admonished* the jury in the usual manner, now orders that a recess be taken until Wednesday, Sept. 21, 1920, at the hour of 10 o'clock, A. ., and that this cause be, and the same hereby is continued to that time for further trial.

At a stated term, towit: the September Term, A. D., 1920, of the District Court of the United States of America, in and for the Southern District of California, Southern Division, held at the Court Room thereof, in the City of San Diego, on Wednesday, the Twenty-second day of September, in the year of our Lord One Thousand nine hundred and twenty;

Present:

The Honorable OSCAR A. TRIPPET, District
Judge.

United States of America,)	
	Plaintiff,)
vs.	)	No. 2320 Crim.
)	
Robert Davis and O. A. Dodson,)	
	Defendants.)

This cause coming on at this time for further trial before the Court, and a jury heretofore impanelled herein; and defendants Robert Davis, and O. A. Dodson being present on bail, together with their attorney, O. V. Willson, Esq.; and T. F. Green, Esq., Assistant U. S. Attorney, and B. B. Crane, Esq., Assistant U. S. Attorney, appearing for the Government; and W. C. Wren, being present as shorthand reporter of the proceedings and testimony; and the roll of the jury having been called, and all being present, and the court having ordered the trial proceeded with; and

Luz Olivas, having been called and sworn, and having testified on behalf of the Government thru the court interpreter, Geo. Coutts; and

D. B. Sidaris, E. S. Boucher, W. P. Conkling, having been respectively called and sworn and having testified on behalf of the Government; and

A. C. Olivas, Felix Olivas, witnesses heretofore sworn, having been recalled, and having testified further on behalf of the Government; and

Now, the Government having no further testimony to offer, rests; and

Now at the hour of 10:55 o'clock A. M., O. V. Willson, Esq., of counsel, as aforesaid for the defendants, having requested that the jury be excused; and

The jury having been admonished in the usual manner by the court, is excused from the court room; and

O. V. Willson, Esq., having moved the court that this action be dismissed, and having argued in support of said motion; and

Now, at the hour of 11:00 o'clock / A. M., it is ordered that a recess be taken for 10 minutes; and

Now, at the hour of 11:10 o'clock, A. M., the court having reconvened, and all being present as before, and W. C. Wren, being present as shorthand reporter of the proceedings and testimony; and the court having announced the jury all present, and having ordered that the trial be proceeded with; and

Now at this time it is by the court ordered that the defendants motion for dismissal be denied, and that an exception be noted for defendants, and

M. B. Davis, O. A. Dodson, W. F. McCullum, Mark M. Rose, having been respectively called and sworn, and having testified on behalf of the defendants; and

Now at the hour of 11:50 o'clock A. M., the defendants having no further testimony to offer, rests; and

The Government having no rebuttal testimony to offer, rests; and

Now, at the hour of 11:55 o'clock, A. M., B. B. Crane, Esq., Assistant U. S. Attorney, of counsel as aforesaid for the Government, having presented the opening argument on behalf of the Government; and

Now, at the hour of 12:07 o'clock P. M., the court having duly admonished the jury now orders that a recess be taken to the hour of 1:00 o'clock P. M.; and

Now, at the hour of 1:00 o'clock P. M., the court having reconvened and all being present as before, W. C. Wren, being present as shorthand reporter of the proceedings and testimony; and the court having announced the jury as all present; and having ordered the trial proceeded with; and

O. V. Willson, Esq., of counsel for the defendants, having presented the argument on behalf of the defendants; and

Now at the hour of 1:25 o'clock P. M., T. F. Green, Esq., Assistant U. S. Attorney, having presented the closing argument on behalf of the Government; and

Now, at the hour of 1:40 o'clock P. M., the court having given *it's* instructions to the jury, and O. V. Willson, Esq., of counsel as aforesaid for defendants having excepted to certain instructions and refusal of court to give certain requested instructions; and

Now, at the hour of 2:00 o'clock P. M., Tom Kilty, a Deputy U. S. Marshall, having been sworn to take charge of the jury, and the jury in charge of the said sworn bailiff, having retired to consider of their verdict; and

Now, at the hour of 2:30 o'clock P. M., the jury having returned into court and having been asked if they have agreed upon a verdict, and said jury, through their foreman, having replied, they have; and having presented a verdict, which verdict is read by the Clerk

and ordered filed herein, said verdict as so read and filed being as follows, to-wit:

"IN THE DISTRICT COURT OF THE UNITED STATES, SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION. United States of America, Plaintiff, vs. Robert Davis, and O. A. Dodson, Defendants. No. 2320 Crim. S. D. We, the Jury in the above entitled cause find the defendant ROBERT DAVIS GUILTY as charged in the indictment; and the defendant O. A. Dodson GUILTY as charged in the Indictment. San Diego, California, September 22nd, 1920. F. A. Schneider, Foreman." and good cause appearing therefor, it is ordered that this cause be, and the same hereby is continued to the hour of 4:00 o'clock, P. M., for sentence of defendants; defendant O. A. Dodson to remain in court until that time; and

Now, at the hour of 4:00 o'clock, P. M., both defendants being present and counsel for respective parties being present as before; and good cause appearing therefor, it is ordered that this cause be, and the same hereby is continued to Thursday, Sept. 23, at the hour of 4:00 o'clock, P. M., for imposing of sentence.

IN THE DISTRICT COURT OF THE UNITED
STATES SOUTHERN DISTRICT OF
CALIFORNIA, SOUTHERN
DIVISION.

* * *

United States of America,)	
)	
Plaintiff,)	
)	
vs.	)	No. 2320 Crim. S. D.
)	
Robert Davis, and O. A.)	
Dodson,)	
Defendants.)	

We, the Jury in the above entitled cause find the defendant ROBERT DAVIS ——— GUILTY as charged in the Indictment; and the defendant O. A. DODSON ——— GUILTY as charged in the Indictment.

San Diego, California, September 22nd 1920

F. A. Schneider.

Foreman.

FILED Sep 1920 CHAS. N. WILLIAMS, *Clerk*
By Fred E Subith, *Deputy*

At a stated Term, to wit: the July Term of the District Court of the United States of America, within and for the Southern District of California, Southern Division, held at the Court Room thereof, in the city of Los Angeles, California, on Monday the 18th day of October, in the year

of our Lord One Thousand Nine Hundred and Twenty.

PRESENT:

The Honorable OSCAR A. TRIPPET, District Judge.

United States of America,)	
	Plaintiff,)
vs.	)	No. 2320 Crim.
Robert Davis, et al.,)	
	Defendant.)

This cause coming on at this time for the imposing of sentence; Herbert M. Ellis, Esq., Assistant U. S. Attorney, appearing for the Government; and O. V. Willson and Albert Schoonover, Esqs., being present as counsel for the defendants Robert Davis and O. A. Dodson; said defendants being present in court; and Herbert M. Ellis, Esq., of counsel as aforesaid, having presented further argument on behalf of the Government; and Albert Schoonover, Esq., of counsel as aforesaid, having replied thereto on behalf of the defendants; it is now by the court ordered that the motion in arrest of Judgment be, and the same hereby is denied, and that an exception be reserved in favor of the defendants; and the court now pronounces sentence upon defendants Robert Davis and O. A. Dodson, for the crime of which they now stand convicted, namely: Viol. Sec. 37, F. P. C., Conspiracy to violate Act of Oct. 28, 1919, National Prohibition Act; and the judgment of the court is that defendant O. A. Dodson, be committed to the Los Angeles County Jail for the term and period of 9 months; and that defend-

ant Robert Davis be committed to the Los Angeles County Jail for the term and period of 12 months.

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

United States of America,)	
Plaintiff,)	
)	
vs.	)	No. 2320 Crim.
)	
Robt. Davis and O. A. Dodson,)	
Defendants.)	

I, Chas. N. Williams, Clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing to be a full, true and correct copy of an original JUDGMENT entered in the above entitled cause; and I do further certify that the papers hereto annexed, constitute the Judgment Roll in said cause.

ATTEST my hand and the seal of said
District Court this Twenty Sixth
(Seal) day of October, A. D., 1920.

CHAS. N. WILLIAMS, Clerk,
By Fred E Subith

Deputy Clerk.

[Endorsed]: Original. No. 2320 Crim. In the District Court OF THE UNITED STATES for the Southern District of California Southern Division United States of America, Plaintiff, *vs.* Robert Davis

and O. A. Dodson, Defendants JUDGMENT ROLL
 Filed Oct 26 1920 Chas. N. Williams Clerk By Fred
 E. Subith Deputy Clerk Recorded Minutes Book No
 38 Page 65

IN THE DISTRICT COURT OF THE UNITED
 STATES IN AND FOR THE SOUTHERN
 DISTRICT OF CALIFORNIA.

UNITED STATES OF)	
AMERICA,)	
)	
	)	Plaintiff,
)	
vs.	)	MOTION IN
)	
	)	ARREST OF
)	
	)	JUDGMENT.
)	
ROBERT DAVIS AND O. A.)	
DODSON, et al.,)	
)	
	)	Defendants.

Defendants Robert Davis and O. A. Dodson, move the Court for arrest of judgment on the verdict heretofore rendered herein on the ground that the indictment herein does not charge any offense against any law of the United States.

Schoonover & Winnek
 O. V. Willson
 Attorneys for the defendants
 Robert Davis and O. A. Dodson.

[Endorsed]: No 2320 DEPT. NO. _____
 IN THE DISTRICT COURT OF THE STATE OF

CALIFORNIA IN AND FOR THE COUNTY OF
 SAN DIEGO U. S. OF AMERICA, Plaintiff VS.
 ROBERT DAVIS AND O. A. DODSON, et al De-
 fendant MOTION IN ARREST OF JUDGMENT.
 Received a copy of the within Motion this 24th day of
 Sept, 1920 Robert O'Connor U. S. Atty Burton
 Briggs Crane Ass't Attorney for Plaintiffs. FILED
 SEP 23 1920 *Chas N. Williams, Clerk* Fred E Su-
 bith *Deputy* SCHOONOVER & WINNEK ATTOR-
 NEY FOR _____ 1106-8 FIRST NATIONAL
 BANK BLDG. Main 4608 SAN DIEGO, CALIFOR-
 NIA

IN THE DISTRICT COURT OF THE UNITED
 STATES, SOUTHERN DISTRICT OF
 CALIFORNIA, SOUTHERN
 DIVISION.

United States of America,	) No. 2320 Crim.
)
Plaintiff,	) Petition of the
)
vs.	) defendants
Robert Davis, O. A. Dodson, et al.	) Robert Davis and
	) O. A. Dodson for
Defendants.	) a Writ of Error

Your petitioners, O. A. Dodson and Robert Davis, defendants in the above entitled cause, bring this, their petition for a writ of error to the District Court of the United States, in and for the Southern District of California, and in that behalf, your said petitioners say:

That on the 18th day of October, 1920, there was made, given and rendered in the above entitled court

and cause a judgment against your petitioners whereby your petitioner, Robert Davis was adjudged and sentenced to serve twelve months in the county jail and your petitioner, O. A. Dodson to serve nine months in the county jail and your petitioners say that they are advised by their counsel and aver that there was and is manifest error in the records and proceedings had in said cause, and in the making, giving and entry of such judgments and sentences, to the great injury and damage of your said petitionery, and each of them, and each and all of which errors will be more fully made to appear by an examination of said records and by an examination of the Bill of Exceptions and the Assignment of Errors which is filed with this petition, and to that end that the judgments, sentences, and proceedings may be reviewed by the United States Circuit Court of Appeals for the Ninth Circuit, your petitioners and each of them, pray that a writ of error may be issued, directed therefrom to the said District Court of the United States, for the Southern District of California, Southern Division, returnable according to law and the practice of the court, and that there may be directed to be returned pursuant thereto a true copy of the record, bill of exceptions, assignment of errors and all proceedings had and to be had in said cause, and that the same may be removed unto the United States Circuit Court of Appeals for the Ninth Circuit, to the end that the error, if any has happened, may be duly corrected and full and speedy justice done your petitioners and each of them.

And your petitioners make the Assignment of Errors filed herewith, upon which they, and each of them, will rely, and which will be made to appear by a return of the said record, in obedience to said Writ.

WHEREFORE your petitioners pray and each of them prays the issuance of a writ as herein prayed, and that the Assignment of Errors filed herewith may be considered as their Assignment of Errors upon the Writ, and that the judgment rendered in this cause may be reversed and held for naught, and that said cause be remanded for further proceedings, and that they and each of them be awarded a supercedeas upon said Judgment, and all necessary process, including bail.

Robert Davis

O. A. Dodson

Schoonover & Winnek

Attorneys for defendants.

O K as to form & sufficiency of sureties

Gordon Lawson

Ass't U. S. Atty.

[Endorsed]: No. 2320 Crim. IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA SOUTHERN DIVISION United States of America, Plaintiff, vs. Robert Davis, O. A. Dodson, et al. Petition of the defendants Robert Davis and O. A. Dodson for a Writ of Error. FILED OCT 18 1920 Chas. N. Williams CHAS. N. WILLIAMS, Clerk By _____ Deputy Clerk

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

UNITED STATES OF
AMERICA,

) No. 2320 Crim.

Plaintiff,) Assignment of

vs.

) errors by O. A.

Robert Davis, O. A. Dodson, et al.) Dodson and
Defendants.) Robert Davis.

ROBERT DAVIS and O. A. DODSON, two of the defendants above named, and plaintiffs in error herein, having petitioned for an order from the above named Court permitting them to procure a writ of error therefrom directed to the United States Circuit Court of Appeals for the Ninth Circuit, from a judgment and sentence made and entered in said cause against the said Robert Davis and *and* O. A. Dodson, plaintiffs in error and petitioners herein, now make and file with their said petition, the following assignments of error upon which they will rely for a reversal of said judgment and sentence upon the said writ, and which said errors, and each and every one of them, are to the great detriment, injury and prejudice of the said defendants and in violation of the rights conferred upon them, and they say that in the record of the proceedings had in the above entitled cause, upon the hearing and determination thereof in the District Court of the United States for the Southern District of California,

Southern Division, there is manifest error in this, to-wit:

The District Court of the United States in and for the Southern District of California, Southern Division, erred in overruling the defendants motion in arrest of judgment.

I hereby certify that the foregoing assignment of errors are made on behalf of the petition for a writ of error herein and in my opinion well taken, and the same now constitute the assignment of errors upon the writ prayed for.

Schoonover & Winnek,
Attorney for defendants Robert Davis and O. A.
Dodson.

[Endorsed]: No. 2320 Crim. IN THE
DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF CALI-
FORNIA SOUTHERN DIVISION UNITED
STATES OF AMERICA, Plaintiff, vs. ROBERT
DAVIS, O. A. DODSON, et al., Defendants. AS-
SIGNMENT OF ERRORS BY ROBERT DAVIS
& O. A. DODSON FILED OCT 18 1920 Chas N.
Williams CHAS N. WILLIAMS, Clerk. By ———
Deputy Clerk.

UNITED STATES OF AMERICA
DISTRICT COURT OF THE UNITED STATES
SOUTHERN DISTRICT OF CALIFORNIA
So. Div.

U. S.	}	CLERK'S OFFICE
v.		No. 2320
Robert Davis, et al.		Praecipe

TO THE CLERK OF SAID COURT;

Sir:

Please issue a certified transcript of the record on writ of error in the above entitled case, said record to consist of the Judgment roll omitting instructions

Motion in arrest of judgment

Ruling on said motion

Petition for writ of Error

Assignment of Errors

Order allowing

Writ of Error

Citation

Bond on writ

Albert Schoonover

Atty for Plft in Error

[Endorsed]: No. 2320 Cr U. S. District Court SOUTHERN DISTRICT OF CALIFORNIA SOUTHERN DIVISION United States of America vs Robert H. Davis et al PRAECIPE FOR transcript on appeal FILED JAN 8 1921 CHAS N. WILLIAMS, Clerk Louis J. Somers

IN THE DISTRICT COURT OF THE UNITED
STATES, SOUTHERN DISTRICT
OF CALIFORNIA
(Southern Division)

UNITED STATES OF)	
AMERICA,)	
Plaintiff in Error,)	
vs.	)	No. 2320 Crim.
ROBERT DAVIS, et al.,)	
Defendants in Error.)	

I, CHAS. N. WILLIAMS, Clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing volume containing

pages, numbered from 1 to inclusive, to be the Transcript of Record on Writ of Error in the above entitled cause, as printed by Defendants in Error and presented to me for comparison and certification, and that the same has been compared and corrected by me and contains a full, true and correct copy of the Indictment, Motion in Arrest of Judgment, Ruling on said Motion, Petition for Writ of Error, Assignment of Errors, Order Allowing Writ of Error, Citation and Bond on Appeal.

I DO FURTHER CERTIFY that the fees of the Clerk for comparing, correcting and certifying the foregoing Record on Writ of Error amount to , and that said amount has been paid me by the Defendants in Error herein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the District Court of the United States of America,

in and for the Southern District of California, Southern Division, this day of , in the year of our Lord One Thousand Nine Hundred and Twenty-one, and of our Independence the One Hundred and Forty-sixth.

CHAS. N. WILLIAMS,
Clerk of the District Court of the
United States of America, in and
for the Southern District of California.

By

Deputy.

